UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,633	07/15/2003	Robert A. Kennewick	090611-0312470	5659

909   7590   09/15/2009
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
WOZNIAK, JAMES S

ART UNIT	PAPER NUMBER
2626	

MAIL DATE	DELIVERY MODE
09/15/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/618,633	KENNEWICK ET AL.
	Examiner	Art Unit	
	JAMES S. WOZNIAK	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *16 June 2009*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1,2,4,6-8,10-39,41-43 and 57-72* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1 and 28* is/are rejected.

7) ☒ Claim(s) *-2, 4, 6-8, 10-27, 29-39, 41-43, and 57-72* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *15 July 2003* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   In response to the office action from 3/16/2009, the applicant has submitted an amendment, filed 6/16/2009, amending independent claims 1 and 28, while adding new claims 63-72 and arguing to traverse the art rejection based on the amended limitations regarding a plurality of dictionary and phrase entries that are dynamically updated based on a history of a current dialog and one or more prior dialogs associated with the user and a particular agent library description *(Amendment, Pages 16-19)*. Applicant's arguments and amendments have been fully considered, and claims 1-2, 4, 6-8, 10-39, 41-43, 57-72 have been noted as containing allowable subject matter as per the below provided reasons.

2.   In response to the previous claim objections, the applicants argue that the objection of claim 29 is improper because claim 28 is not included under the 35 U.S.C. 101 rejection *(Amendment, Page 14)*. In response, the examiner notes that unamended claim 28 recites a method not relying on any type of physical hardware and providing no transformation and should have been noted as being non-statutory. With the current amendment, however, the applicants have specified a vehicle-based computer device, which ties the claimed method to another statutory class and directs the claim towards a statutory method. As such, the claim objection has been withdrawn and the applicant's arguments are moot.

3.   In response to the applicants' arguments directed towards the objection of claims 1-2, 4,

6-7, 10-27, and 57-62 regarding the omission of these claims in the section heading *(Amendment,*

Page 15), the examiner notes that this omission was a typographical oversight and that these

claims should have been included in the heading as they were clearly discussed in the body of

the objection section. The applicants have nonetheless responded to this alleged omitted

objection by arguing that "configured to" does indeed positively recite the functional limitations

associated with the claimed structures *(Amendment, Page 15)*. In response, the examiner notes

that merely stating that the functional limitations which define the claimed elements are

"configured to" be performed does not actively recite that they will necessarily be performed.

The assumption that the functions are actively performed was made by the examiner merely for

the purposes of advancing prosecution to treat the functional limitations properly with the

assumption that amendments would be made to overcome the objections. As these amendments

have not been made, the previous objection has been maintained.

4.   As no terminal disclaimer has been filed *(Amendment, Page 15)*, the previous Double

Patenting rejection is maintained.

5.   As the independent system/method claims *(i.e., claims 1 and 28)* have been amended to

explicitly include a vehicle-based computer device, the claims are tied to another statutory class

and recite specific hardware structure and therefore are directed towards statutory subject matter.

Thus, the previous 35 U.S.C. 101 rejections have been withdrawn.

Claim Objections

6.   **Claims 1-2, 4, 6-8, 10-27, and 57-62** are objected to because of the following

informalities:

   Claims 1-2, 4, 6-8, 10-27, and 57-62 recite or are dependent upon claims that recite

various steps/elements "configured to" perform certain functions. It is not certain whether these

functions are part of the claim because they are not positively recited only "configured to"

perform them. These functions will be considered as being actively performed for the

application of the prior art of record.

Double Patenting

7.   The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection

is appropriate where the conflicting claims are not identical, but at least one examined

application claim is not patentably distinct from the reference claim(s) because the examined

application claim is either anticipated by, or would have been obvious over, the reference

claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re*

Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re*

Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163

USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may

be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

ground provided the conflicting application or patent either is shown to be commonly owned

with this application, or claims an invention made as a result of activities undertaken within the

scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR

3.73(b).

8.   **Claims 1 and 28** are rejected on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claim 1 of U.S. Patent No. 7,398,209 in view of Lin et al

("A Distributed Architecture for Cooperative Spoken Dialogue Agents with Coherent Dialogue

State and History," 1999). Although the conflicting claims are not identical, they are not

patentably distinct from each other because both applications essentially refer to the same

system/method that relies upon context information for performing speech recognition.

Although the present application additionally recites an event manager in the independent

claims, this element would obvious in view of the teachings of Lin et al. Lin teaches discloses a

user interface agent manager architecture that enables query forwarding to a particular dialog

agent for answer retrieval *(Sections 2.2- 3.1 and Fig. 3)* for the benefit of handling dialog across

multiple subject domains (or applications) efficiently and intelligently *(Lin, Section 1)*. Although

'209 features additional steps/means: "Omission of an element and its function is an obvious

expedient if the remaining elements perform the same functions as before". *In re Karlson*,

136 USPQ 184 (1963). Thus, Claims 1 and 28 are not patently distinct from claim 1 of US

7,398,209.

Allowable Subject Matter

9.   **Claims 1-2, 4, 6-8, 10-39, 41-43, and 57-72** would be allowable if rewritten to overcome

the preceding objection and a terminal disclaimer was filed in order to overcome the preceding

obviousness-type double patenting rejection.

10.   The following is a statement of reasons for the indication of allowable subject matter:

    With respect to **Claims 1 and 28**, the prior art of record fails to explicitly teach or fairly

suggest, either taken individually or in combination, a respective vehicle-based system and

method as is set forth in these claims that features means/steps of receiving a natural language

speech input from a user, processing a natural language speech input using a speech recognition

engine, and a specific parser, and a specific agent architecture in combination with the speech

recognition engine including a plurality of dictionary and phrase entries that are dynamically

updated based on at least combined histories from a present dialog and other prior dialogs and

the agent architecture featuring a agent library that includes one or more utilities that can be used

by the system agent and the plurality of domain agents.

    Most pertinent prior art:

Although Bennett et al *(U.S. Patent: 6,615,172)* evidences that a means for receiving and

coding a speech input *(Col. 10, Line 54- Col. 11, Line 17; and Col. 15, Line 53- Col. 16, Line*

21), a natural language processor *(Col. 24, Line 46- Col. 25, Line 67; Col. 27, Lines 17-51; and*

Col. 29, Line 30- Col. 30, Line 7; and agent, Col. 10, Line 54- Col. 11, Line 17) that comprises a

speech recognizer for recognizing query words/phrases that relies on user context data from

different domains *(Col. 7, Lines 17-51; and Col. 27, Lines 17-67)* and a parser *(Col. 11, Line 59-*

Col. 12, Line 10; Col. 17, Lines 28-67; and Col. 27, Lines 17-51), and a shared architecture

between system components *(Col. 11, Lines 34-38)* is well known in the art, Bennett is deficient

in that his invention only relies on a single past history of a current conversation *(Col. 27, Lines*

17-67), whereas the presently claimed invention relies on a combined history of current

conversations and prior different dialogs between the user and the system. Bennett also fails to

teach the cited agent architecture. Thus, Bennett fails to explicitly teach or fairly suggest the

applicants' invention as defined by claims 1 and 28.

Although Lin et al *("A Distributed Architecture for Cooperative Spoken Dialogue Agents*

with Coherent Dialogue State and History," 1999) overcomes some of the deficiencies of

Bennett by teaching an agent architecture for use in a natural language dialog system that

features a user interface agent manager that corresponds to the claimed agent manager *(Section*

2.2-3.1 and Fig. 3), a facilitator/switcher that enables dialog system processes through

dialog/state history that corresponds to the claimed system agent *(Figs. 2 and 3)*, a plurality of

spoken dialog agents *(SDAs)* that correspond to the claimed plurality of domain agents *(Fig. 3)*,

and a database accessible by the agents *(Fig. 3)*, Lin's agent database shown in Fig. 3 does not

feature utilities that can be used by the system agent in a vehicle system and his speech

recognizer does not rely on the applicants' combined histories for recognition updating. Thus,

Lin individually and taken in combination with Bennett, fails to teach the applicants' invention

defined by claims 1 and 28.

The remaining dependent claims further limit independent claims containing allowable

subject, and thus, also contain allowable subject matter by virtue of their dependency.

Conclusion

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

12.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure: See PTO-892.

13.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632.

The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Richemond Dorvil can be reached at (571) 272-7602. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James S. Wozniak/
Primary Examiner, Art Unit 2626